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Legend:
Taxpayer =
Year 1 =

This is in reference to a Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, that the Taxpayer filed requesting to change its taxable year from a tax year ending December 31 to a tax year ending March 31, effective with the tax year ending March 31, Year 1. The Taxpayer has requested that the Form 1128 be considered timely filed under the authority contained in § 301.9100-3 of the Regulations on Procedure and Administration.

The Taxpayer's Form 1128 requesting a change in accounting period to a tax year ending March 31 was required to be filed on or before July 15, Year 1. The information furnished indicates that the application for the change in accounting period was filed late because of an oversight or misunderstanding on the part of the Taxpayer's tax professional.

Section 6.02(1) of Rev. Proc. 2002-39, 2002-1 C.B. 1046, provides that a taxpayer must file a Form 1128 no earlier than the day following the end of the first effective year and no later than the due date (not including extensions) of the federal income tax return for the first effective tax year.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2 (automatic extensions), such as the situation you present, must be made under the rules of § 301.9100-3. Requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides

evidence to establish that the taxpayer acted reasonably and in good faith and that the granting of relief will not prejudice the interests of the government.

Based on the facts and information submitted and the representations made, we conclude that the taxpayer has acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government. Accordingly, the requirements of the regulations for the granting of relief have been satisfied in this case, and the Taxpayer's late filed Form 1128 requesting permission to change to a tax year ending March 31, effective for the short period of January 1 to March 31, Year 1, is considered timely filed.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion as to whether the Taxpayer is permitted under the Code, applicable regulations, and revenue procedures to change to the tax year requested in the Form 1128. The Form 1128 will be processed under the procedures of Rev. Proc. 2002-39 and will require the Taxpayer to submit a separate request under the revenue procedure.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayer and its representatives and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Donna J. Welsh
Senior Technician Reviewer, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)